

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DARRYL ANDERSON

Plaintiff,

VS.

**POLICE OFFICERS ROBERT
McGRODY**

Defendants

: CIVIL ACTION
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: NO: 12-3632
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DEFENDANT’S RESPONSE IN OPPOSITON TO PLAINTIFF’S MOTION IN LIMINE

Defendant, Police Officer Robert McGrody, by and through the undersigned counsel,
hereby responds to Plaintiff’s Motion in Limine as follows:

1. PLAINTIFF’S PRIOR CONVICTIONS

Defendant does not intend to introduce evidence of Plaintiff’s prior convictions. By way
of further answer, Defendant should be permitted to introduce evidence of prior convictions in
the event Plaintiff opens the door to such evidence.

**2. PLAINTIFF’S CONVICTION OF CHARGES RELATED TO THE
UNDERLYING CLAIM**

As a result of the incident which is the subject of this litigation, Plaintiff was convicted of
Simple Assault, Resisting Arrest, Disorderly Conduct –Engaging in Fighting and Harassment.
The Simple Assault convicted was later overturned but the other convictions remained. While
the Defendant does not intend to offer into evidence Plaintiff’s conviction of Simple Assault, we

do intend to offer evidence that Plaintiff assaulted Officer McGrody and tried to take his ASP from him. This evidence is relevant and Defendant should be permitted to offer it into evidence.

Under Federal Rule of Evidence 401, relevant evidence is described as, “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence”. Additionally, Plaintiff was convicted of resisting arrest, disorderly conduct – engaging in fighting - and harassment , and the officer should not be precluded from testifying that Plaintiff tried to disarm him. The severity of the crime at issue is a relevant factor in determining the reasonableness of the officer’s force. If the Defendant is not permitted to introduce this evidence, he will be severely prejudiced.

Based on the foregoing, Plaintiff’s Motion should be denied.

Respectfully submitted,

Date: March 20, 2015

BY: /s/ Niya L. Blackwell
NIYA L. BLACKWELL
Deputy City Solicitor
14th Floor, One Parkway Building
1515 Arch Street
Philadelphia, PA 19102-5397

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CERTIFICATE OF SERVICE

I hereby certify that on this date, a true and correct copy of Defendant's Motion in Limine was filed via ECF and is available for viewing and downloading via the ECF system. I further certify that I directed that a copy of the same should be served upon counsel for the plaintiff, via first class mail, postage prepaid, as follows:

**TO: Stephen O'Hanlon, Esquire
2 Penn Center, Suite 1850
1500 John F. Kennedy Blvd.
Philadelphia, PA 19102**

Date: March 20, 2015

Sincerely,

/s/ Niya L. Blackwell
NIYA L. BLACKWELL
Deputy City Solicitor